

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
DAVID DELUCIA, as fund administrator of  
the United Benefit Fund, ANDREW TALAMO,  
as trustee of the United Benefit Fund,  
THOMAS D. AMBROSIO, as trustee of the  
United Benefit Fund, and the UNITED  
BENEFIT FUND,

Plaintiffs,

-against-

ORDER ADOPTING REPORT &  
RECOMMENDATION

07-CV-3967 (JS)(ARL)

RTD STRATEGIES, INC.,

Defendant.

-----X

APPEARANCES:

For Plaintiffs:     Liam Louis Castro, Esq.  
                          Koehler & Isaacs LLP  
                          61 Broadway, 25th Floor  
                          New York, NY 10006

For Defendants:     No Appearance

SEYBERT, District Judge:

The Plaintiffs brought this action pursuant to sections 502 and 515 of the Employee Retirement Income Securities Act, 29 U.S.C. §§ 1132, 1145 ("ERISA"), as amended, against RTD Strategies, Inc. ("Defendant"). Plaintiffs sought to recover from Defendant delinquent fringe benefit trust fund contributions due to the United Benefit Fund (the "Fund"), along with pre-judgment interest, costs, and attorneys' fees. The obligations arose out of a collective bargaining agreement entered into between Defendant and the Construction Trades and Industrial Employees International Union, Local 621 (the "CBA"); Plaintiffs are intended third-party beneficiaries of the CBA. On April 21, 2008, this Court issued an

Order referring this matter to Magistrate Judge Arlene R. Lindsay for a Report and Recommendation ("R&R") for an "inquest as to damages, including reasonable costs and attorney fees."

Upon review of Judge Lindsay's R&R, issued September 22, 2008, to which no party has objected, the Court hereby ADOPTS the R&R in its entirety and ORDERS the entry of a default judgment against Defendant RTD Strategies, Inc. in the total amount of \$4,483.65, which is comprised of the following: \$4,260.00 for unpaid contributions, and \$223.65 in pre-judgment interest.

Pursuant to Rule 72 of the Federal Rules of Civil Procedure, any objections to the R&R were to be filed with the Clerk of the Court within ten days of service of the R&R. An affidavit of service has been filed, indicating that Plaintiff served Defendants with a copy of the R&R on two occasions: once via registered mail on October 29, 2008, and once via first class mail on November 25, 2008. The time for filing objections has expired and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Furthermore, having resolved all of Plaintiffs' claims, the Clerk of the Court is directed to mark this matter CLOSED.

Plaintiff is directed to serve a copy of this Order on Defendant and file proof of service with the Court.

SO ORDERED.

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York  
February 4, 2009